

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO. 04-10258NG

ARTHUR PERNOKAS AND
DIANNE PERNOKAS,
Plaintiffs

VS.

BARRIE PASTER, M.D.,
Defendant

DEFENDANT'S MOTION TO
EXCLUDE OR LIMIT TESTIMONY OF
PLAINTIFF'S EXPERT WITNESSES

The Defendant, Barrie Paster, M.D., moves to exclude or limit the testimony of the plaintiffs' expert witnesses, Marcia Browne, M.D., and Richard Winickoff, M.D. The plaintiffs' experts were designated on March 18, 2006, but the reports of both experts did not meet the requirements of Fed.R.Civ.P. 26(a)(2)(B). In particular, both reports fail to state the necessary "basis and reasons" supporting the opinions expressed. As discussed in the Memorandum in Support of this motion, an expert's reasons for holding an opinion are critical and fundamental aspects of the disclosure requirement, and the omission of such reasons is grounds for excluding the expert's testimony, pursuant to Fed.R.Civ.P. 37(c)(1).

For the foregoing reasons, and those stated in the Memorandum in Support, Defendant Barrie Paster, M.D., respectfully requests that this Court exclude or limit the testimony of the plaintiffs' experts.

REQUEST FOR ORAL ARGUMENT

The defendant requests oral argument on this motion, unless the Court sees fit to allow the defendant's motion without hearing.

/s/ Anthony R. Brighton
Charles P. Reidy, III
B.B.O. No. 415720
Anthony R. Brighton
B.B.O. No. 660193
Attorney for Defendant, Barrie Paster, M.D.
Martin, Magnuson, McCarthy & Kenney
101 Merrimac Street
Boston, MA 02114
(617) 227-3240

CERTIFICATION OF COUNSEL

I, Anthony Brighton, one of the attorneys for defendant Barrie Paster, M.D., certify that I have conferred with plaintiffs' counsel, Rob Gabler, in an attempt to resolve or narrow the issues raised in this motion.

/s/ Anthony R. Brighton
Charles P. Reidy, III
B.B.O. No. 415720
Anthony R. Brighton
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CERTIFICATE OF SERVICE

I, Anthony R. Brighton, attorney for defendant, Barrie Paster, M.D., hereby certify that on the 18th day of May, 2006, a copy of the above document was sent by mail, postage prepaid to Robert C. Gabler, Esquire, 100 Summer Street, Suite 3232, Boston, MA 02110.

/s/ Anthony R. Brighton

Charles P. Reidy, III

B.B.O. No. 415720

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